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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Roberto Antoine Darden,

10 Plaintiff,

11 v.

12 United States of America, et al.,

13 Defendants.  
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No. CV-22-00271-TUC-JGZ

**ORDER**

15 Pending before the Court is Plaintiff's Motion for Leave to File an Untimely 60(b)  
16 Motion Due to External Circumstances. (Doc. 49.) This Court entered judgment against  
17 Plaintiff on July 27, 2023, dismissing all claims and directing the Clerk of Court to close  
18 the case. (Doc. 35.) Plaintiff subsequently filed a Rule 59 Motion, (Doc. 37), which was  
19 denied on August 13, 2023, (Doc. 40). Plaintiff initially filed a Notice of Appeal to the  
20 Ninth Circuit pending the resolution of his Rule 59 Motion on August 7, 2023, (Doc. 38),  
21 and ultimately an amended Notice of Appeal on October 30, 2023, (Doc. 47). The Ninth  
22 Circuit granted leave to proceed in forma pauperis in the appeal on November 15, 2023.  
23 (Doc. 48.) On August 5, 2024, Plaintiff filed the pending Motion for Leave to File an  
24 Untimely Motion Under Rule 60(b)(1). (Doc. 49.)

25 Federal Rule of Civil Procedure 60(c)(1) sets a one-year time limit for filing a  
26 motion under Rule 60(b)(1). The Court entered judgment on July 27, 2023; therefore,  
27 Plaintiff had until July 27, 2024 to file the motion. Plaintiff argues leave should be granted  
28 because: (1) he was being transferred to a new prison from June 21, 2024 to July 16, 2024;

1 and (2) despite submitting a change-of-address form, Plaintiff did not receive Defendant's  
2 response in the pending appeal in the Ninth Circuit and other legal documents at his new  
3 location until July 29, 2024. (Docs. 49 at 1–2; 49-1 at 4.)

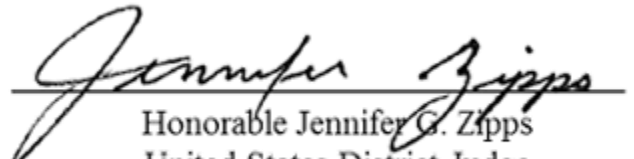
4 Having considered Plaintiff's Motion for Leave to File an Untimely Rule 60(b)  
5 Motion for Relief from Judgment, and good cause appearing,

6 **IT IS ORDERED:**

7 (1) The Plaintiff's Motion for Leave to File an Untimely Rule 60(b) Motion Due  
8 to External Circumstances (Doc. 49) is **granted**.

9 (2) The Clerk of Court shall file the lodged Proposed Motion Under 60(b)(1)  
10 (Doc. 50).

11 Dated this 20th day of September, 2024.

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16 Honorable Jennifer G. Zipp  
17 United States District Judge  
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